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**PRELIMINARY DRAFT  
No. 3042**

**PREPARED BY  
LEGISLATIVE SERVICES AGENCY  
2006 GENERAL ASSEMBLY**

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**DIGEST**

**Citations Affected:** IC 30-2-14-18.

**Synopsis:** Uniform principal and income act. Provides that income earned by a trust becomes a part of the principal and is not distributed to the beneficiaries of specific property. Removes references to estates in order to conform Indiana's version of the uniform principal and income act with current probate law.

**Effective:** July 1, 2006.



A BILL FOR AN ACT to amend the Indiana Code concerning trusts and fiduciaries.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 30-2-14-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 18. After ~~an individual dies, in the case of an estate, or after~~ an income interest in a trust ends, the following rules apply:

(1) A fiduciary ~~of an estate or~~ of a terminating income interest shall determine the amount of net income and net principal receipts received from property specifically given to a beneficiary under the rules in sections 20 through 43 of this chapter that apply to trustees and the rules in subdivision (5). The fiduciary shall distribute the net income and net principal receipts to the beneficiary who is to receive the specific property.

(2) A fiduciary shall determine the remaining net income of ~~a decedent's estate or~~ a terminating income interest under the rules in sections 20 through 43 of this chapter that apply to trustees and by:

(A) including in net income all income from property used to discharge liabilities;

(B) paying from income or principal, in the fiduciary's discretion:

(i) fees of attorneys, accountants, and fiduciaries;

(ii) court costs and other expenses of administration; and

(iii) interest on death taxes;

but the fiduciary may pay those expenses from income of property passing to a trust for which the fiduciary claims an estate tax marital or charitable deduction only to the extent that the payment of those expenses from income will not cause the reduction or loss of the deduction; and

(C) paying from principal all other disbursements made or incurred in connection with the ~~settlement of a decedent's estate or the~~ winding up of a terminating income interest, including debts; funeral expenses; disposition of remains;



1 family allowances; and death taxes and related penalties that  
 2 are apportioned to the ~~estate or~~ terminating income interest by  
 3 ~~the will~~; the terms of the trust or applicable law.

4 (3) ~~A fiduciary shall distribute to a beneficiary who receives a~~  
 5 ~~pecuniary amount outright the interest or any other amount~~  
 6 ~~provided by the will; the terms of the trust; or applicable law from~~  
 7 ~~net income determined under subdivision (2) or from principal to~~  
 8 ~~the extent that net income is insufficient.~~ If a beneficiary is to  
 9 receive a pecuniary amount outright from a trust after an income  
 10 interest ends and no interest or other amount is provided for by  
 11 the terms of the trust or applicable law, the fiduciary shall  
 12 distribute the interest or other amount to which the beneficiary  
 13 would be entitled under applicable law if the pecuniary amount  
 14 were required to be paid under a will.

15 (4) A fiduciary shall distribute the net income remaining after  
 16 distributions required by subdivision (3) in the manner described  
 17 in section 19 of this chapter to all ~~other residuary~~ beneficiaries,  
 18 ~~including a beneficiary who receives a pecuniary amount in trust;~~  
 19 even if the beneficiary holds an unqualified power to withdraw  
 20 assets from the trust or other presently exercisable general power  
 21 of appointment over the trust.

22 (5) A fiduciary may not reduce principal or income receipts from  
 23 property described in subdivision (1) because of a payment  
 24 described in section 38 or 39 of this chapter to the extent that the  
 25 will, the terms of the trust, or applicable law requires the fiduciary  
 26 to make the payment from assets other than the property or to the  
 27 extent that the fiduciary recovers or expects to recover the  
 28 payment from a third party. The net income and principal receipts  
 29 from the property are determined by:

30 (A) including all of the amounts the fiduciary receives or pays  
 31 with respect to the property, whether those amounts:

- 32 (i) accrued or became due before, on, or after the date of an
- 33 individual's death; or
- 34 (ii) an income interest's terminating event; and

35 (B) making a reasonable provision for amounts that the  
 36 fiduciary believes the ~~estate or~~ terminating income interest  
 37 may become obligated to pay after the property is distributed.

